

Fraud Any intentional deception designed to deprive the United States unlawfully of something of value or to secure from the United States for an individual a benefit, privilege, allowance, or consideration to which he or she is not entitled. Such practices include: making false statements; submitting false claims; using false weights or measures; evading or corrupting inspectors or other officials; deceit either by suppressing the truth or misrepresenting material fact; adulterating or substituting materials; falsifying records and books of accounts; arranging for secret profits, kickbacks, or commissions; and conspiring to use any of these devices. The term also includes conflict of interest cases, criminal irregularities, and the unauthorized disclosure of official information relating to procurement and disposal matters.

Independence The state or quality of being free from subjection or from the influence, control, or guidance of individuals, things, or situations. As applied to examining officials and their respective organizations, there is a responsibility for maintaining neutrality and exercising objectivity so that opinions, judgments, conclusions, and recommendations on examined allegations are impartial and shall be viewed as impartial by disinterested third parties.

Mismanagement A collective term covering acts of waste and abuse. Extravagant, careless, or needless expenditure of Government funds or the consumption or misuse of Government property or resources, resulting from deficient practices, systems, controls, or decisions. Abuse of authority or similar actions that do not involve criminal fraud.

Waste The extravagant, careless, or needless expenditure of Government funds, or the consumption of Government property that results from deficient practices, systems, controls, or decisions. The term also includes improper practices not involving prosecutable fraud.

§ 98.4 Policy.

(a) It is DoD policy to combat fraud and mismanagement in DoD programs and operations. To strengthen and

focus departmental efforts in support of this policy, the Defense Hotline Program, under the direction and control of the IG, DoD, shall ensure that allegations of fraud and mismanagement are properly evaluated; substantive allegations are examined; appropriate administrative, remedial, or prosecutive actions are taken; and systems of records for the control of the Defense Hotline are established and maintained.

(b) All DoD Component hotlines shall comply with the guidelines prescribed by this part.

§ 98.5 Responsibilities.

(a) The Inspector General, Department of Defense, as the principal advisor to the Secretary of Defense on all matters relating to the prevention and detection of fraud and mismanagement, shall:

(1) Oversee the development of the Defense Hotline Program.

(2) Provide guidance to DoD Components for implementing DoD policies.

(3) Direct, manage, and control the operation of the Defense Hotline Program.

(4) Establish procedures to ensure that full and proper consideration is given to all cases of alleged fraud and mismanagement in the Department of Defense that are reported through the Defense Hotline Program.

(5) Ensure that audits, inspections, and investigations initiated as an integral part of the Defense Hotline Program are conducted under applicable laws, including the Uniform Code of Military Justice, court decisions, and DoD regulatory documents and policies.

(6) Conduct periodic quality assurance reviews of the DoD Component field investigative files to ensure that investigations of the Hotline allegations have been handled properly and that the findings and conclusions of the examiners are fully supported by the documentation contained in the official files.

(7) Periodically review and evaluate the operations of the Defense Hotline Program.

(8) Establish a Defense Hotline Advisory Group to:

(i) Review Defense Hotline allegations that have been referred in accordance with paragraph (b)(6) of this section and provide appropriate processing and referral instructions to the staff.

(ii) Review, upon request of the Defense Hotline staff, selected audit, inspection, and investigative Defense Hotline completion reports. Weaknesses and deficiencies identified by the examinations shall be referred to the IG, DoD, for appropriate action and resolution.

(iii) Review, or cause to be reviewed on an annual basis, those complaints that were received by the Defense Hotline staff and determined to be matters that did not warrant examination due to insufficient information, age of the allegation, nature of the complaint (i.e., personal grievance, suggestions, etc.), or because of the nonspecific nature of the allegation. The group shall also provide guidance to the staff based on the results of the review, as necessary.

(9) Direct that the applicable IG, DoD, element conduct an audit, inspection, or investigation of any allegation where it is determined that conduct of the inquiry by the involved agency or organization might result in a lack or perceived lack of objectivity or independence on the part of the examining officials. Coordination with the heads of the concerned DoD Components may be done before conducting the examination, if such action is considered appropriate.

(10) Ensure that any allegation made against a staff member of the IG, DoD, the Defense Hotline, or DoD personnel involved in conducting the audit, inspection, or investigative activity is examined in an impartial, independent, and objective manner.

(b) The Inspector General shall select, from nominees provided by the Assistant Inspectors General, the necessary professional and administrative personnel to staff the Defense Hotline. The staff shall:

(1) Operate the Defense Hotline, recording the pertinent information of those allegations received by telephone, mail, or other means of communication that appear to merit examination; and maintain statistical data on all contacts (letters, telephone calls,

personal interviews) that are received by the Defense Hotline.

(2) Establish controls to provide maximum protection for the identity of all persons using the Defense Hotline.

(3) Establish and maintain the required procedural controls, files, and records necessary for tracking the allegations from receipt through the phases of examination, closeout, and storage.

(4) Obtain from the complainant the specific information necessary to ascertain the substance of each allegation and complete a Defense Hotline Record of Call (Appendix A) to record and document those allegations determined to have sufficient merit to warrant referral to the appropriate DoD Component for action or as information matters.

(5) Advise the IG, DoD, or Deputy IG, DoD, of serious allegations or significant trends disclosed while operating the Defense Hotline.

(6) Prepare a Defense Hotline Decision Memorandum (Appendix B) for each valid letter allegation received, and indicate on the memorandum to which DoD Component the allegation is to be referred for either action or information purposes. The memorandum shall be a means for tracking and maintaining control of the complaint. The staff shall also provide any comments and guidance considered pertinent to the conduct of the examination.

(7) Refer items preliminarily determined to be sensitive, controversial, or involving flag or general officers or DoD civilian officials of GS/GM-15 equivalent or higher grades to the Defense Hotline Advisory Group for review and determination by the examining agency. Refer all other allegations directly to the DoD Component concerned.

(8) Coordinate with the General Accounting Office (GAO) Hotline on Defense Hotline Program-related matters. They shall also process all DoD-related allegations that are received from the GAO Hotline in the same manner as Defense Hotline Program allegations, and advise the Defense Hotline Advisory Group of any problems encountered in performing this function.

(9) Promptly process and refer to the appropriate DoD Component those allegations that warrant inquiry, and expedite the processing and referral of those allegations that are time-sensitive. The referral of time-sensitive allegations by telephone is permitted when any delay might adversely affect the efforts of the examining officials.

(10) Review and analyze all interim and final reports of examination to ensure that all aspects of the Defense Hotline complaint were addressed fully, the examinations were conducted properly, and appropriate corrective or punitive measures were taken based on the examination findings.

(11) Notify the appropriate DoD Component Hotline coordinator, by written memorandum, of discrepancies noted in individual reports or apparent deficiencies in the related examination, so that the DoD Component may review and, if necessary, reconduct an audit, inspection, or investigation of the complaint and submit a revised or corrected closing report.

(12) Notify the Defense Hotline Advisory Group of any significant instance when a report of completed examination indicates that the work performed did not meet prescribed audit, inspection, or investigative standards, or was defective in depth, scope, independence, or some other respect, or any instance when examination verifies the complaint of wrongdoing and the DoD Component declines to initiate corrective or punitive measures.

(13) Evaluate all allegations of criminal activity that involve the OSD, the OJCS, or DoD Components and, when warranted, initiate investigation. Conduct investigations of any other allegations, as directed by the IG, DoD.

(14) Investigate or participate in the investigation of Defense Hotline allegations of criminal activity that involve more than one DoD Component or involve other special circumstances.

(15) Ensure that professionalism and organizational independence are observed at all times and that investigations of allegations are conducted impartially and objectively.

(16) Retain all Defense Hotline Program case files for at least 2 years after the Defense Hotline staff has closed the inquiry, then retire the files in accord-

ance with the appropriate DoD administrative Directives and Instructions.

(17) Develop and implement a follow-up system to ensure that recommended administrative or judicial corrective measures, tendered by the examining officials, have been implemented by the responsible authorities. The system should reflect the results of criminal prosecutions, sentences imposed, monetary recoveries, and administrative and other actions taken. When it has been determined that such corrective action has not been taken by the proper authorities, the staff should initiate action to bring the matter to the attention of the next higher command organization.

(18) Inform Defense Hotline agency and organization Hotline coordinators of substantive allegations passed directly to the IG, DoD, for action, if appropriate.

(19) Maintain liaison and communication with DoD Component Hotline coordinators, other Government Agencies and organizations, and external investigative agencies.

(20) Prepare periodic summary analyses of all Defense Hotline operations, including regular reports to the IG, DoD, for each 6-month period ending on March 31 and September 30, and to the Deputy Inspector General for Program Planning, Review and Management for use in the DoD, Office of the Inspector General "Semiannual Report to the Congress." Include in the semiannual report an accounting for all allegations received by the Defense Hotline office from all sources, and prepare them in accordance with the format required by DoD, Office of the Inspector General, "Semiannual Report to the Congress."

(21) Maintain the widest dissemination of information concerning the Defense Hotline Program by using such mechanisms as news releases, items in internal publications (including telephone directories), official notices, posters, and other media. Develop educational material for use in encouraging DoD employees to report fraud and mismanagement in DoD programs and operations.

(c) *Heads of DoD Components* shall establish and implement policies to ensure that the Defense Hotline Program

is fully effective. To achieve that aim, they shall:

(1) Establish a single coordinator to manage, monitor, and report to the Defense Hotline the actions of audit, inspection, and investigative groups on allegations referred by the Defense Hotline to the DoD Component for action.

(2) Establish and implement operational procedures in accordance with the guidance in § 98.6.

(3) Have cognizant audit, inspection, and investigative organizations examine Defense Hotline complaints. The audit, inspection, and investigative organizations shall:

(i) Audit, inspect, or investigate Defense Hotline referrals in accordance with DoD standards and procedures, and under the implementing guidance of the concerned agency or organization. Examination of Defense Hotline allegations by the Military Departments shall be conducted using the regulatory procedures of the concerned Service element.

(ii) Maintain appropriate records to ensure accountability of all Defense Hotline referrals until final disposition of the case.

(iii) Establish the administrative and operational controls and procedures necessary to provide maximum protection for the identity of any Defense Hotline Program source who requests anonymity or confidentiality.

(iv) Ensure that professionalism and organizational independence are observed and that audits, inspections, and investigations are conducted in an impartial and objective manner.

(v) Promptly process all allegations that have been referred by the Defense Hotline for action and expedite the examination of allegations that are time-sensitive.

(vi) Process and examine all allegations that have been referred as "information" matters to determine if an inquiry is warranted. Report any action taken as the result of the referral as outlined in paragraph (c)(3)(vii) of this section.

(vii) Submit a final report of the results of the inquiry through the Component Hotline coordinator to the Defense Hotline within 90 days from the date the complaint was transmitted by

the Hotline for action. The report shall conform with the format prescribed in the Defense Hotline Completion Report (Appendix D). When an examination cannot be completed in 90 days, submit a Defense Hotline Progress Report (Appendix C) to the Defense Hotline stating the reason for the delay and the expected date of submission of the final report.

(viii) Submit to the Defense Hotline a Defense Hotline Progress Report on each open case on the 6-month anniversary date of the beginning of the investigation, using the format in Appendix C.

(ix) Submit progress reports to the Defense Hotline on the status of all audit actions or criminal investigations that have been open 6 months or more as of March 31 and September 30 to facilitate semiannual reporting under Pub. L. 95-452. Submit the cited status information 15 calendar days before the end of the 6-month period.

(x) Provide information or documentation on pending or closed examinations to the IG, DoD.

(xi) Ensure that documentation contained in the official examination file fully supports the findings and conclusions reflected in the Defense Hotline Completion Report. As a minimum, the file shall contain a copy of the Hotline Completion Report and a memorandum that reflects the actions taken by the examining official to determine the findings, complete identity of all witnesses, the date and information related during the interview, and specific details and location of all documents reviewed. The extent of the file documentation shall be dictated by the type of examination conducted.

(xii) Retain all working papers and files for 2 years from the date the matter was formally closed by the Defense Hotline. At the end of the 2-year period, retire the files in accordance with the pertinent administrative procedures of the DoD Component.

(4) Cooperate with the auditors, inspectors, and investigators by granting immediate and unrestricted access—except as is provided for by section F. of

DoD Directive 5106.1¹—to personnel, documents, and records; and provide suitable working facilities and arrangements.

(5) Ensure, under reporting requirements outlined in paragraphs (c)(3) (vii), (viii), and (ix) that reports are promptly submitted to the referring audit, inspection, or investigative organization. Also, completion reports should reflect administrative, corrective, punitive, or other type action taken on cases referred to them for resolution.

(6) Maintain an active Defense Hotline publicity campaign, using local newspapers, official notices, posters, telephone directories, and other media. Implement education programs to encourage employees to identify and report fraud and mismanagement in DoD programs and operations.

§ 98.6 Procedures.

(a) Methods for processing and controlling the receipt, examination, and reporting of all allegations referred to DoD Components for audit, inspection, and investigation through the Defense Hotline Program are addressed in this section and § 98.5 and include procedures to track, monitor, and follow up on allegations referred to the Defense Hotline, regardless of source. Sources of allegations include The White House, Members of Congress, the GAO Hotline, Office of Management and Budget (OMB), other executive agency hotlines, DoD staff activities, and individuals communicating directly with the IG, DoD.

(b) Necessary controls shall be established to provide maximum protection for the identity of users of the Defense Hotline. Individuals shall be ensured that they can report instances of fraud and mismanagement without fear of reprisal or unauthorized disclosure of identity, as provided in Pub. L. 95–452 and DoD Instruction 7050.3.² However, individuals reporting alleged fraud and mismanagement should be encouraged to identify themselves to the Defense

Hotline so that the Defense Hotline staff can recontact the source if additional information is needed.

(c) All substantive allegations received by the Defense Hotline shall be examined. The examination shall normally be conducted by disinterested and qualified auditors, inspectors, or investigators. When necessary, DoD Components may use individuals or groups with other professional or technical skills to assist in conducting examinations under the direct supervision of the responsible audit, inspection, or investigative officials.

(d) The procedures used must ensure that due professional care and organizational independence are observed, and that examinations are impartial and objective. Allegations must be examined by officials independent of the specific unit, office, staff element, operation, etc., in which the complaint is alleged to have occurred.

(e) DoD Components shall encourage personnel to register complaints and grievances through appropriate management and grievance channels, and submit suggestions for management improvements through the proper DoD Incentive Awards Program. There shall be no requirement for any individual who makes complaints or provides information to the IG, DoD, Defense Hotline representatives to discuss such complaints or information with the individual's supervisor or the head of the activity. DoD Components shall encourage the reporting of suspected fraud and mismanagement to the Defense Hotline either through the toll-free 800–424–9098 commercial, FTS 202–693–5080, or AUTOVON 223–5080 telephone system or by mail to the Defense Hotline, The Pentagon, Washington, DC 20301–1900.

§ 98.7 Information requirements.

The reporting requirements in § 98.5 are exempt from formal approval and licensing under subsection VII.F. of enclosure 3 to DoD Directive 5000.19.³

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, ATTN: Code 1052, Philadelphia PA 19120.

²See footnote 1 to § 98.5(c)(4).

³See footnote 1 to § 98.5(c)(4).